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*Attorneys for Defendant Ballet Jewels LLC*

**'08 CIV 5002**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

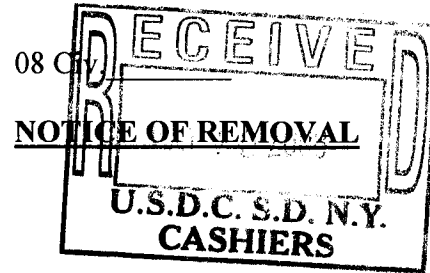
UT FREIGHT SERVICE (USA) LTD. and  
UT FREIGHT FORWARDERS LTD.,

Plaintiffs,

-against-

BALLET JEWELS LLC,

Defendant.



TO: **THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

**PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1332(a)(1), 1441 and 1446 and Local Rule 81.1, defendant Ballet Jewels LLC ("Ballet"), hereby removes the above-entitled action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

In support of this notice, Ballet respectfully states:

1. Upon information and belief, plaintiff UT Freight Service (USA) Ltd. ("UT Freight USA") is a New York corporation having its principal place of business in the State of New York, County of Queens. Pursuant to 28 U.S.C. § 1332(c)(1), UT Freight USA is a citizen of the State of New York.

2. Upon information and belief, plaintiff UT Freight Forwarders Ltd. ("UT Freight Forwarders") is a New York corporation having its principal place of business in the State of New York, County of Queens. Pursuant to 28 U.S.C. § 1332(c)(1), UT Freight Forwarders is a citizen of the State of New York.

3. Defendant Ballet is a limited liability company organized under the laws of the State of Delaware, with its principal place of business in Kearny, New Jersey. Pursuant to 28 U.S.C. § 1332(c)(1), Ballet is a citizen of Delaware and New Jersey.

4. On or about April 15, 2008, UT Freight USA and UT Freight Forwarders (together, "Plaintiffs") commenced this action in the Supreme Court of the State of New York, County of New York (Index No. 60112/2008) by filing a Summons and Verified Complaint with the Clerk of the Supreme Court, County of New York. Plaintiffs seek to recover monetary damages in the amount of \$869,666.76, together with interest, costs and disbursements.

5. Plaintiffs served the Summons and Verified Complaint on Ballet on May 5, 2008. A true copy of the Summons and Verified Complaint is annexed hereto as Exhibit A.

6. This Notice of Removal is being filed within thirty (30) days after service of the Summons and Verified Complaint, under the rules for computation of time prescribed by Fed. R. Civ. P. 6(a), and is therefore timely under 28 U.S.C. § 1446(b).

7. Ballet respectfully removes this action to this Court pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446(a) and (b) on the ground that diversity of citizenship exists between Plaintiffs and Ballet Jewels, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

8. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Ballet will give written notice of the removal to Plaintiffs and will file a copy of this

Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of New York.

**WHEREFORE**, Ballet gives notice that the action referred to above is removed from the Supreme Court of the State of New York, County of New York, to this Court.

Dated: New York, New York  
May 30, 2008

**BINGHAM McCUTCHEN LLP**

By: 

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*Attorneys for Defendant Ballet Jewels LLC*

# **EXHIBIT A**

AETNA

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

INDEX NO:  
Filed:

UT FREIGHT SERVICE (USA) LTD., and  
UT FREIGHT FORWARDERS LTD.,

08601120

Plaintiffs,

Plaintiffs' designate  
New York County as the  
place of trial.

-against-

BALLET JEWELS, LLC,

The basis of venue is  
Defendant's Business

Defendant.

**SUMMONS**

Plaintiff's Residence is  
161-15 Rockaway Blvd.  
Jamaica, N.Y. 11434

To the above named Defendant:

**YOU ARE HEREBY SUMMONED**, to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a Notice of Appearance, on the plaintiff's attorneys within twenty (20) days after service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: New York, New York  
March 31, 2008



By: **THOMAS A. CULHANE**  
**CALANO & CULHANE, LLP**  
**Attorneys for the Plaintiffs**  
370 Lexington Avenue, Suite 1200  
New York, New York 10017  
Tel. No: (212) 685-3500

**Defendant(s) Address:**  
**BALLET JEWELS, LLC**  
Building 12B, River Terminal  
12 Hackensack Avenue  
Kearny, New Jersey 07032

**FILED**  
APR 15 2008  
COUNTY CLERK'S OFFICE  
NEW YORK

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
UT FREIGHT SERVICE (USA) LTD., and  
UT FREIGHT FORWARDERS LTD,

**VERIFIED  
COMPLAINT**

Plaintiffs,

-against

BALLET JEWELS, LLC,

Defendant.

**FILED**

8601120

APR 15 2008

Plaintiffs, by their attorneys, CALANO & GULLANE LLP,  
COUNTY CLERK'S OFFICE,  
NEW YORK  
complaining of the defendant, BALLET JEWELS, LLC, allege upon  
information and belief as follows:

1. That all times hereinafter mentioned the plaintiffs were and still are corporations, duly organized and existing under and by virtue of the laws of the State of New York, and having their principal place of business at 161-15 Rockaway Boulevard, Room 219, Jamaica, New York 11434.

2. That upon information and belief, the defendant, BALLET JEWELS, LLC, is now and at all times hereinafter mentioned was a foreign corporation, duly organized and existing under and by virtue of the laws of the State of Delaware, and having its principal place of business at Building 12B, River Terminal, 12 Hackensack Avenue,

Kearny, New Jersey 07032.

3. That upon information and belief, plaintiffs and defendant were parties to a contract.

4. That upon information and belief, plaintiffs and defendant were parties to an agreement to export merchandise.

5. That upon information and belief, plaintiffs and defendant were parties to a contract under which the plaintiffs agreed to export merchandise for the defendant.

6. That upon information and belief, at all times hereinafter mentioned, plaintiffs fully complied with and abided by the terms of the contract.

7. That upon information and belief, at all times hereinafter mentioned, defendant failed to comply with and failed to abide by the terms of the contract.

8. That as a result of said breach, the plaintiffs have been damaged in the sum of EIGHT HUNDRED SIXTY-NINE THOUSAND SIX HUNDRED AND SIXTY-SIX DOLLARS AND SEVENTY-SIX CENTS (\$869,666.76).

**AS AND FOR A SECOND CAUSE OF ACTION**

9. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in plaintiffs' First Cause of Action, as if set forth at length herein.

10. That defendant, its agents, servants, and/or employees made the following representations to the plaintiffs, and representations of similar kind:

To pay to the plaintiffs the agreed upon amount to have the defendant's merchandise shipped from China to the U.S.A.

11. That said representations were made to make plaintiffs act in and reliance upon said misrepresentation.

12. That plaintiffs justifiably relied on said representations.

13. That said representations were false.

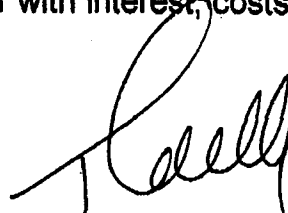
14. That defendant failed to comply with the representation made to plaintiffs.

15. That as a result of the occurrence, the plaintiffs were damaged in the sum of EIGHT HUNDRED SIXTY-NINE THOUSAND SIX HUNDRED AND SIXTY-SIX DOLLARS AND SEVENTY-SIX CENTS (\$869,666.76).



**WHEREFORE**, the plaintiffs demand judgment against the defendant in the sum of EIGHT HUNDRED SIXTY-NINE THOUSAND SIX HUNDRED AND SIXTY-SIX DOLLARS AND SEVENTY-SIX CENTS (\$869,666.76), together with interest, costs and disbursements of this action.

Dated: New York, New York  
March 31, 2008



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**THOMAS A. CULHANE**  
CALANO & CULHANE, LLP  
Attorneys for the Plaintiffs  
370 Lexington Avenue, Suite 1200  
New York, New York 10017  
Tel. 212-685-3500